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ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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June 2, 2004

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The Honorable Kyle E. McSlarrow
Deputy Secretary
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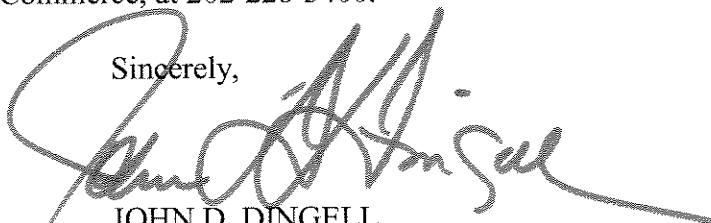
Dear Mr. McSlarrow:

On May 11, 2004, you testified before the Subcommittee on Oversight and Investigations in a hearing entitled "DOE Nuclear Security: What Are the Challenges and What's Next?" We now ask for your help on several additional questions (attached).

Because we wish to include the questions and responses in the printed record of this hearing, please respond no later than Friday, June 18, 2004. Please fax and e-mail the response. The faxed response should be directed to Peter Kielty, Committee on Energy and Commerce, Majority staff, at 202-226-2447, and Voncille Hines, Committee on Energy and Commerce, Minority staff, at 202-225-5288. The e-mail copy of the response should be directed to (Peter.Kielty@mail.house.gov) and Voncille Hines (Voncille.Hines@mail.house.gov). Due to the uncertainties of postal deliveries on Capitol Hill, we ask that your response not be sent through the postal service.

If you have any questions, please have your staff contact Edith Holleman, Minority Counsel, Committee on Energy and Commerce, at 202-226-3400.

Sincerely,



JOHN D. DINGELL
RANKING MEMBER

Attachment

The Honorable Kyle E. McSllarrow
Page 2

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable James C. Greenwood, Chairman
Subcommittee on Oversight and Investigations

The Honorable Peter Deutsch, Ranking Member
Subcommittee on Oversight and Investigations

**Questions for Department of Energy Deputy Secretary McSlarrow
from the Honorable John D. Dingell
regarding the May 11, 2004, Hearing Entitled
“DOE Nuclear Security: What Are the Challenges and What’s Next?”**

1. Four years ago, the National Nuclear Security Administration (NNSA) was established to improve security at the Department of Energy’s nuclear weapons facilities. Would you give specific examples of how this management structure has improved security?
2. In March of this year, the Inspector General (IG) issued a report stating that the new non-berm design for the new facility to consolidate highly enriched uranium at Y-12 was not cheaper than the more secure berm design and that its complex construction requirements would add cost and time to the project schedule. The IG also concluded that one of the reasons the design change was approved was because NNSA did not adequately update the cost-benefit analysis for the project before adopting the new design. The IG said the same failure occurred in the decision about reconfiguring the Kansas City plant. Please explain why NNSA didn’t do cost-benefit updates before making these final project decisions, and why there is no policy in place to require updating cost-benefit analyses when design changes are made, or there has been a significant time lapse in implementation. Is it more important to continue the project than to save taxpayer dollars?
3. In September of 2001, Sandia National Laboratory also came to the conclusion that the non-berm design was not as effective as the berm design. Linton Brooks, head of NNSA, told the IG that the Department agreed to redo the cost-benefit analysis, but also said that he remained “convinced that the non-berm, Defense in Depth security design selected in 2001 provides the more cost-effective approach for this facility’s mission and also offers better flexibility to adjust to future revisions in assessments of adversary capabilities.” Based on this statement, it appears that NNSA will find it difficult to do an unbiased cost-benefit analysis. What steps have you taken, such as having a different department or an outside party do the cost-benefit analysis, to make sure the review is unbiased?
4. Please provide a specific schedule with dates and costs for the removal of all of the special nuclear material from TA-18 and the reactor at Sandia.
5. The 2003 Design Basis Threat requires new facilities to incorporate measures to mitigate the consequences of aircraft attacks and other large improvised explosive attacks. Has DOE examined the designs of planned facilities, such as the Highly Enriched Materials Facility at the Y-12 Plant, to determine if they meet this criteria? Also, what is the likely effect of the special team’s report on improvised nuclear devices on planned facilities?
6. How much progress has NNSA made in (1) hiring additional protective forces; (2) retaining existing protective forces; (3) reducing protective force overtime; and (4) ensuring that protective forces are meeting their training requirements?

**Questions for Deputy Secretary McSlarrow
from the Honorable Edward J. Markey
Committee on Energy and Commerce
regarding the May 11, 2004, Hearing entitled
“DOE Nuclear Security: What are the Challenges and What’s Next?”**

On the Design Basis Threat

1. According to GAO, the latest Postulated Threat was developed by the intelligence community in January 2003, and had a section on threats to US Nuclear Weapons Facilities, which included both sites with fully-assembled nuclear weapons and those with nuclear weapons-grade materials. The Design Basis Threat for DOE facilities has always been based on the Postulated Threat, but the May 2003 DOE DBT assumes *fewer attackers* than the Postulated Threat.
 - a. Why did DOE ignore the assessment of the intelligence community when it developed its DBT?
 - b. Has there ever been another instance in which the DOE DBT was different than the Postulated Threat? If so, when?
 - c. Will you be altering the DBT to conform to the Postulated Threat when you revisit this issue?
 - d. When will the new DBT be completed?
 - e. During the hearing, DOE claimed that the reason why the Postulated Threat should not apply to DOE facilities is that it was developed with attacks overseas in mind. However, the Postulated Threat evidently contains a section entitled “The Postulated Threat to U.S. Nuclear Weapons Facilities and Other Selected Strategic Facilities.” How many U.S. nuclear weapons facilities are there overseas? Were these what the Postulated Threat was referring to? If not, what was it referring to?
 - f. GAO stated that DOE’s Office of Security ignored the Postulated Threat in part because it asserted that it only applies to completed nuclear weapons and test devices. However, GAO stated in its testimony at the Subcommittee’s hearing and in its April 20, 2004, report that the Postulated Threat also includes special nuclear materials. Which is correct? If the Postulated Threat includes special nuclear materials, why does the Office of Security state otherwise?
2. The GAO stated that DOE’s Design Basis Threat follows a “dual-track” approach, with higher security provided to facilities that handle fully-assembled nuclear weapons (Pantex Plant in Amarillo, Texas, the Nevada Test Site and the Office of Transportation Safeguards), and lower levels of security for facilities that store large quantities of weapons-grade uranium and plutonium. I believe this to be extremely ill-advised since a terrorist could break in, access the weapons-grade materials, and construct and detonate a dirty bomb or improvised

nuclear weapon on the spot. In light of what has been reported publicly about the extensive technical safeguards that exist to prevent unauthorized detonation of a U.S. nuclear weapon, it seems to me that it could be easier for a suicidal terrorist to break in, access the weapons-grade materials, and construct and detonate a dirty bomb or improvised nuclear weapon on the spot than it would be to steal a fully-assembled nuclear weapon and figure out how to detonate it.

- a. Isn't it possible that a terrorist could do as much if not more damage, more easily and quickly, with a critical mass of weapons grade uranium than with a fully-assembled nuclear weapon?
 - b. Does this mean that the DBT for facilities with fully-assembled nuclear weapons is lower than the Postulated Threat, and *even lower* for facilities that store large quantities of weapons-grade uranium and plutonium?
 - c. Will you be changing this plan to treat these types of facilities separately when you revise the DBT in the months to come?
3. According to GAO, DOE agreed to reexamine some of the key assumptions made in the May 2003 DBT and that this review will be complete by June 2004. Specifically, the DOE DBT evidently requires sites to protect up to "industry standards" for chemical sabotage. However, according to GAO, no such standards exist. Will the new DBT contain explicit standards to address the threat of chemical sabotage? If not, why not?
 4. According to GAO, DOE's criterion used for protection against radiological sabotage is based on acute radiation dosages received by individuals that would cause immediate physical harm, and not on longer-term effects such as added risk of cancer mortality or environmental contamination that would consume enormous resources and time to mitigate. Will DOE be altering its criterion to reflect these added consequences? If not, why not?

On the new initiatives

1. For each new initiative announced, please provide a table containing a list and brief description of each step required to complete the initiative, the expected costs to complete each step and the expected date of completion.
2. One of the initiatives you announced was a plan to remove all the Category I and II nuclear materials from TA-18 at Los Alamos. The Clinton Administration made this very same announcement in early 2000.
 - a. Why wasn't the Clinton Administration initiative ever implemented?
 - b. Why don't the same factors that apparently prevented this initiative from being implemented previously apply now?

- c. On April 9, 2004, Dr. Everet Beckner of NNSA wrote a document that stated that only 50% of the material at TA-18 would be moved during an 18-month period. Is that an accurate statement? If not, why did he make it?
 - d. Emails obtained by the Project on Government Oversight stated that DOE planned to keep nuclear materials at TA-18 until 2011, and that Los Alamos wished to extend the date to 2015. Are these timelines consistent with the initiative the Department recently announced? Exactly when will all the Category I and II nuclear materials be removed from TA-18? Why do there seem to be multiple stories coming from different DOE offices as to the timeframe to remove these materials?
3. One of the initiatives you announced was to create a disk-free computer environment to protect classified information. The Clinton Administration made this very same announcement in 1999. In fact, on May 5, 1999, then-Los Alamos lab Director John Browne testified at a hearing of the Senate Energy and Natural Resources Committee (see <http://www.lanl.gov/orgs/pa/News/BrowneTestimony050599.html>). In his testimony, he stated that the lab was “modifying classified computer systems and procedures to prevent unauthorized or inadvertent transfer of information from classified computers to unclassified computers by the transfer of information by removable media (tapes, disks, etc).”
- a. Why wasn't the Clinton Administration initiative ever implemented?
 - b. Why don't the same factors described in your response to factors that apparently prevented this initiative from being implemented previously apply now?
4. One of the initiatives announced was to shut down the Sandia Pulse reactor in the next three years. My understanding is that all that is required is to move the fuel from New Mexico to Nevada, and the reactor itself is rarely used. Why will this take so long?
5. One of the initiatives announced is a study of whether the guard force should be federalized.
- a. It has been 2.5 years since September 11 – why hasn't this matter already been studied?
 - b. Please describe the planned study as well as the timeframe associated with it. What factors will DOE be considering? With whom will DOE be consulting?
6. One of the initiatives announced is a study of whether plutonium and highly enriched uranium can be permanently removed from Lawrence Livermore National Laboratory (LLNL).
- a. It has been 2.5 years since September 11 – why hasn't this and other special nuclear material consolidation possibilities already been studied?

- b. Some within DOE have stated that the plutonium and highly enriched uranium must remain at LLNL because scientists are using it. Couldn't both the material and experimental equipment be transported to Nevada and have the scientists travel to Nevada to conduct their experiments? If not, why not?
 - c. How frequently are experiments conducted on this material?
 - d. In a separate Congressional hearing, DOE/NNSA Administrator Linton Brooks stated that moving this material would "preclude our carrying out our stockpile stewardship assessments, and that's because while we can move the material someplace else, we can't move the research capabilities and processes that exist at Livermore." Do you agree with Administrator Brooks' statement? Why or why not?
- 7. One of the initiatives announced was an expedited schedule for constructing the Highly-Enriched Uranium Materials Facility at Y-12 at Oak Ridge, Tennessee. The current contractor, BWXT, altered its plans to build an underground bermed facility covered by earth on 3 of its sides and now wants to build an aboveground facility. The DOE Inspector General (IG) concluded in March 2004 that such a facility would be less secure and more expensive.
 - a. Why was the design for this facility changed?
 - b. Do you agree or disagree with the DOE IG's conclusion that the new design would be less secure and more expensive? If you agree, than why are you allowing this design to proceed? If you disagree, please explain.
 - c. Has BWXT chosen contractors to construct the facility? If so, please list them.
- 8. What plans do you have to begin to de-inventory Argonne West and the Idaho National Engineering and Environmental Laboratory? Aren't there significant quantities of special nuclear materials being stored there that are not being used? If there are no such plans, why not?

On Recent Reports that Yet Another Disk Drive Has Been Lost at Los Alamos

On May 20, 2004, Los Alamos admitted that it had misplaced yet another classified computer drive.

- a. When was DOE headquarters first made aware of this incident? When did Los Alamos first discover that the storage device was missing?
- b. It is my understanding that DOE did not immediately dispatch its incident response team to investigate, as was the policy whenever a security problem arose during the Clinton Administration. Has this policy changed, and if so, how and why?

- c. If the policy has not changed, then why wasn't the incident response team dispatched in this instance?
- d. Is Los Alamos investigating itself in this case? If so, why, especially since the last time Los Alamos investigated itself it ended up retaliating against Glenn Walp and Steve Doran, who were internal investigators fired by Los Alamos when they uncovered widespread security failures, fraud, mismanagement, and other problems?
- e. On May 5, 1999, then-Los Alamos lab Director John Browne testified at a hearing of the Senate Energy and Natural Resources Committee (see <http://www.lanl.gov/orgs/pa/News/BrowneTestimony050599.html>). In his testimony, he stated that the lab was "modifying classified computer systems and procedures to prevent unauthorized or inadvertent transfer of information from classified computers to unclassified computers by the transfer of information by removable media (tapes, disks, etc)." Why did this initiative never get fully implemented? Why is it taking so long? When will it be complete?
- f. The laboratory spokesperson, Kevin Roark, was quoted in the San Francisco Chronicle stating that "this does not constitute any sort of threat to national security" and said that the disk contained information about chemical explosives. Why was the information on the disk classified if the loss of the information does not constitute a risk to national security? Is it the Department's position that the information about chemical explosives contained on the disk can be freely shared with anyone who wants it?

On Reports that Chinese Diplomats May have Tried to Spy at Los Alamos

- 1. An April 30, 2004, article in the Washington Times reported that two Chinese diplomats who had left their Los Angeles consulate improperly sped past a guard post near classified facilities at Los Alamos on February 26 before being apprehended.
 - a. When was DOE headquarters first informed of this incident?
 - b. The report stated that the car was on the same road as TA-18 and TA-55, both sensitive facilities that house special nuclear materials. Is this true?
 - c. When was the FBI first informed of this incident?
 - d. When was the State Department first informed of this incident?
 - e. Has this incident been further investigated? If so, what was the outcome? Please provide copies of all reports, memos and correspondence related to this matter.
 - f. Doesn't this incident further highlight the need to move the special nuclear materials out of TA-18?

On Wackenhut Corporation

1. A March 2004 report by the Inspector General (IG) found that four DOE sites where Wackenhut Corporation holds the security contract (Nevada Test Site, Savannah River, Rocky Flats, Y-12) "had eliminated or modified significant portions of the training while others were not using realistic training delivery methods." For example,
 - a. At all four sites Wackenhut did not conduct basic training in the use of shotguns.
 - b. At the Nevada Test Site and Savannah River Site, Wackenhut excluded or modified prescribed training techniques for vehicle assaults.
 - c. At Rocky Flats and Savannah River Wackenhut excluded or modified defensive tactics.
 - d. At none of its sites did Wackenhut include instruction in rappelling, even though it was part of the special response team core curriculum.
 - e. At the Nevada Test Site and Oak Ridge Wackenhut eliminated or substantially modified training in the use of batons.

According to the report, sites using unrealistic training methods don't meet departmental requirements because the skills acquired by the officers cannot be adequately measured and the use of anything less than realistic training techniques, "may rob the trainee of the exposure to the levels of force, panic, and confusion that are usually present during an actual attack." Such deviations increase the possibility that the protective force "will not be able to safely respond to security incidents or will use excessive levels of force." Do you approve of such deviations from the Department's training curriculum? What steps have you taken and what steps will you take to ensure that these deviations are stopped?

2. In January, the IG also found that Wackenhut supervisory personnel had been tipped off in advance during a DOE drill developed to ensure that the site's protective force can respond to potential security threats, such as a terrorist attack. Government investigators concluded that Wackenhut's actions were improper and had tainted the test results to the degree that they could not be relied upon. The IG recommended that the Manager, Y-12 Site Office, and the Manager, Oak Ridge Operations Office "Evaluate whether the information disclosed by [the] review impacts any previous analysis of the efficacy of the site's protective force, and take appropriate corrective actions."
 - a. Have corrective actions been undertaken? If so, will you please identify them? If not, why not?
3. The IG report also recommended that the Manager, Y-12 Site Office, and the Manager, Oak Ridge Operations Office "Consider the information disclosed by our review when evaluating Wackenhut's performance, and take appropriate action with respect to determining award fee."

- a. How has the information revealed by the IG's report affected your evaluation of Wackenhut's performance? What action do you intend to take with respect to Wackenhut's award fee?
4. As you know, foreign-owned companies cannot perform on security-sensitive DOE contracts unless they take specific steps to insulate themselves from "foreign ownership, control or influence" (FOCI). As you may know, Group 4 Falck controls the operations of The Wackenhut Corporation. Both companies are parties to a Proxy Agreement that negates FOCI for The Wackenhut Corporation's subsidiary, Wackenhut Services, Inc. by shielding the foreign owner from any role in controlling the operations of the U.S. contractor. FOCI regulations specify that the DOE and Wackenhut shall meet at least annually to review the effectiveness of the security arrangement and specify that the proxy holders shall submit an implementation and compliance report. Please supply all departmental documents resulting from the 2002 and 2003 annual reviews for the company including: the questions DOE asked and the answers provided by the company; memos; correspondence; emails; the proxy holders' implementation and compliance report; and the Lead Responsible Office's report.
5. Given the record established by the IG investigations, do you plan to undertake a review of Wackenhut's fitness to serve as a contractor at DOE nuclear sites? If not, why not?
6. In February, DOE announced it had awarded a no-bid contract worth up to \$40 million a year to provide security and other services at the Idaho National Engineering and Environmental Laboratory (INEEL) to Alutiiq, LLC, an Alaskan native corporation with no prior nuclear security experience. The contract was to run for three years with two one-year extensions, for a possible total of \$200 million. As you may know, Alutiiq has in the past sub-contracted its security work to the Wackenhut Corporation. After considerable criticism from Congress and others, the Department announced on April 27th that it would not contract out security services at INEEL after all.
 - a. Does the Department have any current contracts with Alutiiq or any other Alaskan native corporation that were awarded non-competitively? If so, please provide a list of all such contracts, the date on which they were awarded, the amount of money awarded, the terms of work and the identities of any subcontractors utilized by the prime contractors.
 - b. Has Alutiiq or any other Alaskan native corporation submitted bids, letters of interest, or any other notification to the Department with respect to other security contracts? If so, please provide a list of all such bids, letters of interest and other notifications, including the date, name of the DOE site involved, funding amount of the contract, and what decision, if any, that DOE has made.
 - c. Is it Department policy to award contracts non-competitively? If not, why did you deviate from that policy in this case?